

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED

18 U.S.C. § 1344(1), (2) – Bank Fraud; 18 U.S.C. § 1343 – Wire Fraud; 18 U.S.C. § 664 – Theft or Embezzlement from Employee Benefit Plan; 18 U.S.C. § 1027 – False Statements and Concealment of Facts in Relation to Documents Required by ERISA; 18 U.S.C. §§ 981(a)(1)(C), 982(a)(2) & 28 U.S.C. § 2461(c) – Criminal Forfeiture

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: SEE ATTACHED FOR PENALTIES

Name of District Court, and/or Judge/Magistrate Location

 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

FEB 11 2016

DEFENDANT - U.S.

 SUSAN Y. SOONG
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 DISTRICT COURT NUMBER

CR 16

63

CRB

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Department of Labor

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form BRIAN STRETCH

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned) Benjamin Kingsley

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

 1) ☒ If not detained give date any prior summons was served on above charges
2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)**IS IN CUSTODY**4) ☐ On this charge5) ☐ On another conviction
☐ Federal ☐ State
6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☒ SUMMONS ☐ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☒ Arraignment ☐ Initial Appearance

Defendant Address:

5306 Valley View Road, Rancho Palos Verdes, California, 90275

Date/Time: 3/3/2016 at 9:30am Before Judge: duty magistrate court

Comments:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

PENALTY SHEET ATTACHMENT

Counts One through Five:

18 U.S.C. § 1344 – Bank Fraud

Maximum penalties: 30 years of imprisonment (18 U.S.C. § 1344)
\$1,000,000 fine or twice gross gain or loss (18 U.S.C. §§ 1344, 3571(b)(3))
5 years of supervised release (18 U.S.C. § 3583(b)(2))
\$100 special assessment (18 U.S.C. § 3013)
Restitution (18 U.S.C. § 3663A)

Counts Six through Eleven:

18 U.S.C. § 1343 – Wire Fraud

Maximum penalties: 20 years of imprisonment (18 U.S.C. § 1343)
\$250,000 fine or twice gross gain or loss (18 U.S.C. § 3571(b)(3))
3 years of supervised release (18 U.S.C. § 3583(b)(2))
\$100 special assessment (18 U.S.C. § 3013)
Restitution (18 U.S.C. § 3663A)

Counts Twelve and Thirteen:

18 U.S.C. § 664 – Theft or Embezzlement from Employee Pension Benefit Plan

Maximum penalties: 5 years of imprisonment (18 U.S.C. § 664)
\$250,000 fine or twice gross gain or loss (18 U.S.C. § 3571(b)(3))
3 years of supervised release (18 U.S.C. § 3583(b)(2))
\$100 special assessment (18 U.S.C. § 3013)
Restitution (18 U.S.C. § 3663A)

Count Fourteen

18 U.S.C. § 1027 – False Statements and Concealment of Facts in Relation to Documents
Required by ERISA

Maximum penalties: 5 years of imprisonment (18 U.S.C. § 1027)
\$250,000 fine or twice gross gain or loss (18 U.S.C. § 3571(b)(3))
3 years of supervised release (18 U.S.C. § 3583(b)(2))
\$100 special assessment (18 U.S.C. § 3013)
Restitution (18 U.S.C. § 3663A)

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

UNITED STATES OF AMERICA,
V.

FILED

FEB 11 2016

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CRB

ALAN WEISSMAN,

DEFENDANT(S).

INDICTMENT

Title 18 U.S.C. § 1344(1), (2) – Bank Fraud; 18 U.S.C. § 1343 – Wire Fraud; 18 U.S.C. § 664 – Theft or Embezzlement from Employee Benefit Plan; 18 U.S.C. § 1027 – False Statements and Concealment of Facts in Relation to Documents Required by ERISA; 18 U.S.C. §§ 981(a)(1)(C), 982(a)(2) & 28 U.S.C. § 2461(c) – Criminal Forfeiture

A true bill.


Foreman

Filed in open court this 11th day of

February, 2016

ISSUE SUMMONS


Clerk

ROSE MAHER

Bail, \$


MARIA ELENA JAMES
UNITED STATES MAGISTRATE JUDGE

BRIAN J. STRETCH (CABN 163973)
Acting United States Attorney

FILED
FEB 11 2016
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CRB

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALAN WEISSMAN,

Defendant.

CASE NO.

CR 16

63

VIOLATIONS: 18 U.S.C. § 1344(1), (2) – Bank
Fraud; 18 U.S.C. § 1343 – Wire Fraud;
18 U.S.C. § 664 – Theft or Embezzlement from
Employee Benefit Plan; 18 U.S.C. § 1027 – False
Statements and Concealment of Facts in Relation to
Documents Required by ERISA; 18 U.S.C.
§§ 981(a)(1)(C), 982(a)(2) & 28 U.S.C. § 2461(c) –
Criminal Forfeiture

SAN FRANCISCO VENUE

INDICTMENT

The Grand Jury charges:

Introductory Allegations

At all times relevant to this Indictment:

1. Title I of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.* (“ERISA”), established standards governing the operation of most private-sector employee benefit plans, including pension benefit plans. Pension benefit plans may allow employees and their employers to make contributions, generally on a tax-deferred basis, to provide for the employees’ retirement.

2. ERISA governed, among other things, a particular form of pension benefit plans known as “Employee Stock Ownership Plans” (“ESOPs”). ESOPs were plans whose assets were primarily invested in the stock of the sponsoring employer.

INDICTMENT

1 3. Generally, under ERISA, pension plan contributions are required to be held in trust.
2 When a contribution is made to a plan and placed in trust, the contribution becomes a “plan asset.”

3 4. Under ERISA, a pension plan is governed by a written instrument known as the “plan
4 document.” The plan document describes how and when an employee becomes eligible to participate in
5 the plan, how the plan is to be funded (by employee and/or employer contributions), and the benefits to
6 be provided by the plan. A plan document also generally describes the roles and duties of the plan’s
7 fiduciaries.

8 5. A “plan sponsor” creates a pension plan by adopting a pension plan document and
9 establishing a trust to hold the plan’s assets. The plan sponsor generally has the power to appoint the
10 plan administrator, the plan trustees, and other fiduciaries.

11 6. A “plan administrator” is responsible for the day-to-day administration of the plan,
12 including but not limited to, enrollment of new participants, processing distributions to existing
13 participants, and fulfilling the plan’s reporting and disclosure requirements.

14 7. A plan “trustee” is responsible for safeguarding pension plan assets and ensuring that
15 they are invested prudently and in conformity with the directives of the trust agreement.

16 8. The plan administrator and trustee are “fiduciaries” of the pension plan and its assets.

17 9. Under ERISA, a fiduciary owes basic duties to a pension plan and its participants,
18 including, among others, a duty of loyalty, a duty of prudence, and a duty to follow the plan documents.
19 Specifically, in relevant part, a fiduciary shall “discharge his duties with respect to a plan solely in the
20 interest of the participants and beneficiaries and – (A) for the exclusive purpose of (i) providing benefits
21 to the participants and their beneficiaries, and (ii) defraying reasonable expenses of administering the
22 plan; (B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a
23 prudent man acting in a like capacity and familiar with such matters would use in the conduct of an
24 enterprise of a like character and with like aims; ... and (D) in accordance with the documents and
25 instruments governing the plan insofar as such documents and instruments are consistent with” ERISA.

26 10. Under ERISA, a fiduciary may not engage in prohibited transactions using plan assets,
27 including self-dealing. Specifically, a fiduciary “shall not cause the plan to engage in a transaction, if he
28 knows or should know that such transaction constitutes a direct or indirect . . . lending of money or other

1 extension of credit between the plan and a party in interest . . . [or] transfer to, or use by or for the
2 benefit of, a party in interest, of any assets of the plan.” Further, under ERISA, a fiduciary “shall not . . .
3 deal with the assets of the plan in his own interest or for his own account.”

4 11. Under ERISA, ESOPs are required to do regular, annual accountings. When the business
5 in which an ESOP invests is sold, the cash that results from the sale is subject to an accounting, and any
6 withdrawals must be identified and justified as consistent with ERISA and any plan documents.

7 12. Under ERISA, account statements for a bank or investment account of a pension plan are
8 documents that are required to be kept as part of the records of a pension plan.

9 13. Defendant ALAN WEISSMAN resided in California. WEISSMAN served
10 professionally as a trustee of various ESOP pension plans covered by ERISA. WEISSMAN was
11 compensated for his work as trustee of these plans. WEISSMAN was familiar with ERISA and was
12 aware of the definitions and requirements alleged in paragraphs 1 through 12.

13 14. Marilyn Burns Education Associates, Inc. (“MBEA”), d/b/a Math Solutions, provided
14 professional development services, products, and resources to various educators. MBEA was located in
15 Sausalito, California.

16 15. MBEA sponsored the MBEA ESOP, an ESOP pension plan for MBEA employees. The
17 MBEA ESOP was covered by ERISA. The MBEA ESOP invested in shares of MBEA.

18 16. WEISSMAN served as the sole trustee of the MBEA ESOP and was empowered by the
19 MBEA ESOP to direct the investment of the MBEA ESOP’s assets for the sole benefit of the MBEA
20 ESOP’s participants and beneficiaries. WEISSMAN signed and accepted the terms of the MBEA ESOP
21 as trustee.

22 17. On or about August 20, 2010, MBEA was sold to Scholastic, Inc. Cash proceeds from
23 the sale were deposited into the MBEA ESOP in exchange for the shares of MBEA that the MBEA
24 ESOP owned.

25 18. MBEA ESOP maintained a trust account at Charles Schwab in Corte Madera, California,
26 with an account number ending in -3539 (“MBEA ESOP Schwab Account”). WEISSMAN, as trustee,
27 had the ability to disperse funds from that account consistent with his fiduciary obligations. Cash
28 proceeds from the sale to Scholastic were deposited into the Schwab account. A portion of the cash held

1 by the MBEA ESOP in the Schwab account was held on behalf of Schwab by PNC Bank in a checking
2 account with an account number ending in -5642 ("MBEA ESOP PNC Account").

3 19. Independent Electric Supply, Inc. ("IES") distributed construction equipment. IES was
4 located in San Carlos, California.

5 20. IES sponsored the IES ESOP, an ESOP pension plan for IES employees. The IES ESOP
6 was covered by ERISA. The IES ESOP invested in shares of IES.

7 21. WEISSMAN served as the sole trustee of the IES ESOP and was empowered by the IES
8 ESOP to direct the investment of the IES ESOP's assets for the sole benefit of the IES ESOP's
9 participants and beneficiaries. WEISSMAN signed and accepted the terms of the IES ESOP as trustee.

10 22. On or about August 31, 2011, IES was sold to Sonepar USA. Cash proceeds from the
11 sale were deposited into the IES ESOP in exchange for the shares of IES that the IES ESOP owned.

12 23. IES ESOP maintained an account at Bank of America in Concord, California, with an
13 account number ending in -0468 ("IES ESOP Bank of America Account"). WEISSMAN, as trustee,
14 had the ability to disperse funds from that account consistent with his fiduciary obligations. Some of the
15 cash proceeds from the sale of IES to Sonepar USA were deposited into this account.

16 24. WEISSMAN jointly or individually maintained a checking account at US Bank with an
17 account number ending in -4902 ("WEISSMAN US Bank account"). WEISSMAN also jointly or
18 individually maintained a savings account at Chase Bank ending in -1769 ("WEISSMAN Chase Savings
19 Account") and a checking account at Chase Bank ending in -2255 ("WEISSMAN Chase Checking
20 Account").

21 25. Studio Photo Imaging, Inc. ("SPI") was a California corporation controlled by
22 WEISSMAN. It had no legal relationship to MBEA, IES, the MBEA ESOP, or the IES ESOP.

23 26. SPI maintained a checking account at Comerica Bank with an account number ending in
24 -2489 ("SPI Comerica Account"). WEISSMAN had signature authority on that account and was listed
25 on account documents as "Chairman and CEO" of SPI.

26 27. PNC Bank, Bank of America, Comerica Bank, US Bank, and Chase Bank were financial
27 institutions as that term is defined at 18 U.S.C. § 20, the deposits of which were insured by the Federal
28 Deposit Insurance Corporation.

The Scheme to Defraud

28. Beginning at a date unknown, but no later than September 2010, and continuing through a date unknown, but to at least November 2011, WEISSMAN knowingly devised, intended to devise, and carried out a scheme and artifice to defraud the MBEA ESOP, IES ESOP, and the beneficiaries of the two ESOPs, by means of materially false and fraudulent pretenses, representations, and promises, and by omissions and concealment of material facts, and a material scheme and artifice to defraud a financial institution and to obtain money and property under the custody and control of a financial institution by means of materially false and fraudulent pretenses, representations, and promises, and by omissions and concealment of material facts, which scheme is described further below.

29. As part of the scheme to defraud, WEISSMAN, as trustee, had control of the bank accounts of the MBEA ESOP and IES ESOP. When the accounts of these ESOPs contained substantial cash funds, WEISSMAN used his control to fraudulently initiate payments from the ESOP accounts to his personal bank account and the bank account of his business, SPI. He did so without the authorization or knowledge of the ESOPs, plan sponsors, or participants, and in violation of the ESOP plan documents, his fiduciary obligations, and ERISA. In so doing, he converted the funds from the ESOPs into his own personal funds or the funds of his business, SPI. He also transferred thousands of dollars in the funds that he fraudulently deposited in the SPI account into his personal bank account at Chase.

30. It was further part of the scheme that WEISSMAN did omit to inform the ESOPs, for which he served as a fiduciary, that he had fraudulently initiated payments to himself, and did conceal and hide, and cause to be concealed and hidden, the acts done and the purpose of the acts done in furtherance of the scheme. WEISSMAN did so, in part, to maintain his business as a professional trustee, to continue to be compensated for such work, and to ensure that the accounting and distribution of the proceeds from the sales of the plan sponsors would be completed without identifying as missing the funds that he had fraudulently taken and embezzled. These omissions and concealment included, but were not limited to:

- (a) initiating bank transactions from the accounts of the ESOPs as if they were authorized by WEISSMAN's position as trustee, thus misrepresenting to the originating and receiving banks

1 that these were authorized and lawful transactions, when they were in fact not;

2 (b) failing to inform the representatives of the ESOPs, plan sponsors, and plan administrators
3 that he had fraudulently obtained and converted the funds, and then intentionally delaying the
4 provision of account statements and other information regarding the ESOPs that were required
5 by ERISA and requested by representatives of the ESOPs, plan sponsors, and plan
6 administrators;

7 (c) inventing false reasons for the delays in provision of the account statements and other
8 required documents, including, but not limited to, falsely informing representatives of the MBEA
9 ESOP, MBEA, and plan administrator that Charles Schwab or the MBEA ESOP account at
10 Charles Schwab had been subject to "hacking" or an "electronic intervention" that delayed the
11 provision of statements and other information regarding the MBEA ESOP Schwab Account.
12 WEISSMAN then falsified a document purportedly from Schwab describing the "hacking" or
13 "electronic intervention," and provided that document to representatives of the MBEA ESOP,
14 MBEA, and plan administrator;

15 (d) creating the false appearance that the funds he fraudulently converted were not so
16 converted, by altering and forging account statements and other documents to give the
17 appearance that the money he had converted was not missing from the accounts;

18 (e) using funds that he had fraudulently obtained and converted from the IES ESOP to pay
19 back some of the funds that he had fraudulently obtained and converted from the MBEA ESOP,
20 to give the appearance that the funds he had taken from the MBEA ESOP were not missing;

21 (f) falsely reporting to an auditor that the funds fraudulently obtained and converted from the
22 IES ESOP were investment fees paid to Blackrock; and

23 (g) falsely stating at a deposition that he had moved funds from the MBEA ESOP account
24 into the SPI checking account because the SPI checking account "got a higher rate of return."

25 COUNTS ONE THROUGH FIVE: (18 U.S.C. § 1344(1), (2) – Bank Fraud)

26 31. The factual allegations of Paragraphs 1 through 30 are re-alleged and incorporated as if
27 fully set forth here.

28 32. Beginning at a date unknown, but no later than September 2010, and continuing through

a date unknown, but to at least November 2011, in the Northern District of California and elsewhere, the defendant,

ALAN WEISSMAN,

did knowingly and with the intent to defraud devise and execute, and attempt to execute, a material scheme and artifice to defraud financial institutions and to obtain moneys, funds, credits, assets, and other property that were then under the custody and control of financial institutions, by means of materially false and fraudulent pretenses, representations, and promises, and by omissions and concealment of material facts.

Execution of the Scheme

33. On or about the dates set forth in the separate counts below, in the Northern District of California and elsewhere, for the purpose of executing the scheme and artifice referred to above, and attempting to do so, the defendant conducted the following financial transactions, among others:

COUNT	DATE	FINANCIAL TRANSACTION
1	9/16/2010	Deposit and clearing of check for \$50,000, from MBEA ESOP Schwab Account held at MBEA ESOP PNC Account to SPI Comerica Account
2	9/29/2010	Deposit and clearing of check for \$40,000, from MBEA ESOP Schwab Account held at MBEA ESOP PNC Account to SPI Comerica Account
3	12/17/2010	Deposit and clearing of check for \$55,000, from MBEA ESOP Schwab Account held at MBEA ESOP PNC Account to SPI Comerica Account
4	2/11/2011	Deposit and clearing of check for \$55,000, from MBEA ESOP Schwab Account held at MBEA ESOP PNC Account to SPI Comerica Account
5	10/17/2011	Deposit and clearing of check for \$390,261.82, from IES ESOP Bank of America account to WEISSMAN US Bank Account

Each in violation of Title 18, United States Code, Section 1344(1), (2).

COUNTS SIX THROUGH ELEVEN: (18 U.S.C. § 1343 – Wire Fraud)

34. The factual allegations of Paragraphs 1 through 30 are re-alleged and incorporated as if fully set forth here.

35. Beginning at a date unknown, but no later than September 2010, and continuing through a date unknown, but to at least November 2011, in the Northern District of California and elsewhere, the defendant,

ALAN WEISSMAN,

1 did knowingly and with the intent to defraud devise and execute, and attempt to execute, a material
 2 scheme and artifice to defraud, by means of materially false and fraudulent pretenses, representations,
 3 and promises, and by omissions and concealment of material facts.

4 Execution of the Scheme

5 36. On or about the dates set forth in the separate counts below, in the Northern District of
 6 California and elsewhere, for the purpose of executing the scheme and artifice referred to above, and
 7 attempting to do so, the defendant, did knowingly transmit and cause to be transmitted the following
 8 writings, signs, signals, pictures, and sounds in interstate commerce by means of wire, radio, and
 9 television communications:

COUNT	DATE	ITEM WIRED
6	6/11/2011	Email from WEISSMAN to representatives and beneficiaries of MBEA ESOP and representatives of MBEA stating “. . . Due to the enormous problem with the Schwab documents caused by computer hacking issues and a disruption of the calculations, . . .”
7	7/5/2011	Email from WEISSMAN to representatives of MBEA ESOP and MBEA attaching letter stating “We had previously advised you regarding the electronic intervention of a number of assets held by Charles Schwab. . . .”
8	11/18/2011	Email and attachments from WEISSMAN to representatives of MBEA ESOP and MBEA stating “I am very sorry for the delay in getting this out. I have spent the last 72 hours fixing the statements [sic] with the tech support people. . . .”
9	11/18/2011	Email and attachments from WEISSMAN to representatives of MBEA ESOP and MBEA stating “here is the second batch alan”
10	11/18/2011	Email and attachments from WEISSMAN to representatives of MBEA ESOP and MBEA stating “This is the last batch which includes all of the checks written and cashed. Alan”
11	11/23/2011	Wire of \$342,842.50 from WEISSMAN US Bank Account to MBEA ESOP Schwab Account held at MBEA ESOP PNC Account

21 Each in violation of Title 18, United States Code, Section 1343.

22 COUNT TWELVE: (18 U.S.C. § 664 – Theft or Embezzlement from Employee Pension
 23 Benefit Plan)

24 37. The factual allegations of Paragraphs 1 through 30 are re-alleged and incorporated as if
 25 fully set forth here.

26 38. On or about February 10 and February 11, 2011, in the Northern District of California
 27 and elsewhere, the defendant,

28 ALAN WEISSMAN,

INDICTMENT

1 did embezzle, steal, and unlawfully and willfully abstract and convert to his own use, and the use of
 2 another, the moneys, funds, securities, premiums, credits, property, and other assets of the MBEA
 3 ESOP, an employee pension benefit plan subject to ERISA, in that WEISSMAN authorized check
 4 number 147 from the MBEA ESOP Schwab Account held at the MBEA ESOP PNC Account in the
 5 amount of \$55,000, payable to "Comerica Bank," and deposited by WEISSMAN in the SPI Comerica
 6 Account, in violation of Title 18, United States Code, Section 664.

7 COUNT THIRTEEN: (18 U.S.C. § 664 – Theft or Embezzlement from Employee Pension
 8 Benefit Plan)

9 39. The factual allegations of Paragraphs 1 through 30 are re-alleged and incorporated as if
 10 fully set forth here.

11 40. On or about October 17, 2011, in the Northern District of California and elsewhere, the
 12 defendant,

13 ALAN WEISSMAN,

14 did embezzle, steal, and unlawfully and willfully abstract and convert to his own use, and the use of
 15 another, the moneys, funds, securities, premiums, credits, property, and other assets of the IES ESOP, an
 16 employee pension benefit plan subject to ERISA, in that WEISSMAN authorized check number 1085
 17 from the IES ESOP Bank of America Account in the amount of \$390,261.82, payable to "US Bank,"
 18 and deposited by WEISSMAN in the WEISSMAN US Bank Account, in violation of Title 18, United
 19 States Code, Section 664.

20 COUNT FOURTEEN: (18 U.S.C. § 1027 – False Statements and Concealment of Facts in
 21 Relation to Documents Required by ERISA)

22 41. The factual allegations of Paragraphs 1 through 30 are re-alleged and incorporated as if
 23 fully set forth here.

24 42. On or about November 18, 2011, in the Northern District of California and elsewhere, the
 25 defendant,

26 ALAN WEISSMAN,

27 did make a false statement and representation of fact, knowing it to be false, and knowingly concealed,
 28 covered up, and failed to disclose a fact the disclosure of which was required by ERISA and was

necessary to verify, explain, clarify, and check for accuracy and completeness any report required by ERISA to be published and any information required by ERISA to be certified, in that the defendant falsely altered and then emailed to representatives of the MBEA ESOP and MBEA account statements of the MBEA ESOP Schwab account, in violation of Title 18, United States Code, Section 1027.

FORFEITURE ALLEGATION: (18 U.S.C. §§ 981(a)(1)(C), 982(a)(2), and 28 U.S.C. § 2461(c)

43. All of the allegations contained in this Indictment are re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 981(a)(1)(C), 982(a)(2), and Title 28, United States Code, Section 2461(c).

44. Upon a conviction for the offenses alleged in Counts One through Five of this Indictment, the defendant,

ALAN WEISSMAN,

shall forfeit to the United States pursuant to 18 U.S.C. § 982(a)(2) all property constituting, and derived from, proceeds the defendant obtained directly and indirectly, as the result of those violations including, but not limited to including, but not limited to:

a. a forfeiture money judgment.

45. Upon a conviction for the offenses alleged in Counts Six through Thirteen of this Indictment, the defendant,

ALAN WEISSMAN,

shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) all property constituting, and derived from, proceeds the defendant obtained directly and indirectly, as the result of those violations including, but not limited to:

a. a forfeiture money judgment.

46. If any of the aforementioned property, as a result of any act or omission of defendant –

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third person;

c. has been placed beyond the jurisdiction of the Court;

d. has been substantially diminished in value; or

e. has been commingled with other property that cannot be divided without difficulty;
any and all interest the defendant has in other property shall be vested in the United States and forfeited
to the United States pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1).

All in violation of Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(2), Title 28,
United States Code, Section 2461(c), and Rule 32.2 of the Federal Rules of Criminal Procedure.

DATED:

A TRUE BILL

2-11-16


FOREPERSON

BRIAN J. STRETCH
Acting United States Attorney


DAVID R. CALLAWAY
Chief, Criminal Division

(Approved as to form: )
AUSA KINGSLEY